

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
(SAN ANTONIO DIVISION)**

THE UNITED STATES OF AMERICA,

THE STATE OF ALASKA,

THE STATE OF HAWAII, AND

THE NORTHWEST CLEAN AIR AGENCY,

Plaintiffs,

v.

TESORO REFINING & MARKETING
COMPANY LLC,

TESORO ALASKA COMPANY LLC,

TESORO LOGISTICS L.P., AND

PAR HAWAII REFINING, LLC,

Defendants.

Civ. No. 5:16-cv-No. 00722

SECOND NON-MATERIAL MODIFICATION TO CONSENT DECREE

WHEREAS, on September 28, 2016, this Court entered a consent decree (Consent Decree) among Plaintiffs, including the United States of America (United States), on behalf of the Environmental Protection Agency (EPA) and Defendants, including Tesoro Refining & Marketing Company LLC, (Tesoro), resolving certain alleged violations of federal statutory and regulatory provisions under the Clean Air Act, 42 U.S.C. § 7401 et seq. (ECF No. 14) at several

petroleum refineries owned and operated by Defendants including a refinery located in Salt Lake City, Utah (Salt Lake City Refinery).

WHEREAS the United States and Tesoro agree to modify the Consent Decree as detailed herein in order to authorize a short delay for completing tie-ins for a non-regenerative wet gas scrubber and LoTOx System at the Salt Lake City Refinery. This delay is intended to alleviate anticipated regional gasoline shortages caused in part by recent hurricanes and by expected refinery turnarounds.

WHEREAS Paragraph 251 of the Consent Decree provides that:

This Consent Decree contains the entire agreement of the Parties and shall not be modified by any prior oral or written agreement, representation, or understanding. Non material modifications to this Consent Decree shall be effective when signed in writing by the United States, the Settling Defendants responsible for compliance at the Covered Refinery or Covered Refineries affected by the modification pursuant to Paragraph 6 above and the Applicable State Co-Plaintiff. The United States shall file non material modifications with the Court on a periodic basis. For purposes of this Paragraph, non material modifications include but are not limited to modifications to the frequency of reporting obligations and modifications to schedules that do not extend the date for compliance with emissions limitations following the installation of control equipment, provided that such changes are agreed upon in writing between the United States, Applicable State Co-Plaintiff and Settling Defendant pursuant to Paragraph 6 above. A modification that does no more than incorporate new regulatory requirements, language, or citations is also a non-material modification. Material modifications to this Consent Decree shall be in writing, signed by the United States, the Applicable State Co-Plaintiff, and the Settling Defendants responsible for compliance at the Covered Refinery or Covered Refineries affected by the modification pursuant to Paragraph 6 above, and shall be effective upon approval by the Court.

WHEREAS Tesoro has provided the United States with information indicating that a short delay in completing the tie-ins for a non-regenerative wet gas scrubber and LoTOx System at the Salt Lake City Refinery is necessary to avoid further exacerbating anticipated gasoline supply shortages.

WHEREAS Because the modification set forth herein does not extend any emissions limits under the Consent Decree, the United States and Tesoro agree that the modification is not material as defined by the Consent Decree and concerns only the Salt Lake City Refinery.

NOW THEREFORE the United States and Tesoro hereby agree that the Consent Decree shall be modified as follows (A redline Consent Decree reflecting these changes is attached):

1. The compliance deadline for installation of a non-regenerative wet gas scrubber and LoTOx System or equivalent on the SLC FCCU and all related monitoring requirements in Paragraph 60 shall be changed as follows:

a. Paragraph 60.a shall be replaced with:

a. By January 31, 2018, Tesoro shall install and operate a non-regenerative wet gas scrubber and LoTOx System or equivalent on the SLC FCCU.

* * *

2. Paragraph 61 will be revised to include new subparagraphs d and e as follows:

d. SLC FCCU Shutdown. No later than December 30, 2017, Tesoro shall shut down the SLC FCCU until the wet gas scrubber and LoTOx System required by Paragraph 60.a above is installed and operational.

e. Interim Additive Rate Increase. Starting on October 9, 2017, Tesoro will increase its SO₂ additive rate for the SLC FCCU from its historical average of 108 lb/day to a range of 200-300 lb/day until the SLC FCCU is shutdown on December 30, 2017. Tesoro will increase additives for the SLC FCCU within the 200-300 lbs/day range to affect the maximum SO₂ concentration reduction possible. For purposes of this Consent Decree, the maximum SO₂ concentration reduction is defined as the additive rate where further addition of additives no longer reduces SO₂ concentrations as measured when regenerator afterburn is 30 Deg. F or lower as averaged for the control period when the additive rate is ≤ 300 lb/day. Regenerator afterburn is the temperature difference between the regenerator flue gas outlet temperature and the average regenerator dense bed temperature. (The lack of afterburn is an indication of a lack of oxygen in the regenerator bed necessary for the reaction of coke sulfur to SO₂ and then SO₃).

i. Increase of additive rates: If the afterburn measurement remains above the 20 °F minimum based on 1-min increments for 3 consecutive days,

additive addition will be increased until either the 30 °F afterburn average limit is reached or the maximum additive addition rate of 300 lb/day is reached.

ii. Decrease of additive rates: Should the afterburn temperature drop below 20 °F then additive addition may be decreased but not below 200 lb/day.

The United States and Tesoro agree to the modification as set forth above.

FOR THE UNITED STATES OF AMERICA:

THE UNITED STATES DEPARTMENT OF JUSTICE


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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Second Non-Material Modification to the Consent Decree to be served upon the following counsel for Defendants by first class mail, postage pre-paid because they are not yet registered in the Court's electronic case filing system.

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